

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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PATRICIA DeSANTIS,)
individually, and as Successor)
in Interest for RICHARD)
DeSANTIS, deceased, and as)
Guardian Ad Litem for DANI)
DeSANTIS, a minor,)

Plaintiffs,)

vs.)

No. C-07 3386 JSW)

CITY OF SANTA ROSA, JERRY)
SOARES, RICH CELLI, TRAVIS)
MENKE, PATRICIA MANN, and DOES)
1 through 25, inclusive,)

Defendants.)

DEPOSITION OF DANIEL JONES

June 10, 2008

REPORTED BY: A. MAGGI SAUNDERS,

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1 before you received the call about the DeSantis issue?

2 A. How long that day?

3 Q. Yes.

4 A. Since 3:00 o'clock in the afternoon.

5 Q. Okay. Did you make any arrests on that
6 shift prior to reporting to the DeSantis situation?

7 A. I don't remember. I was writing a report
8 at the time of the call, but I don't remember if it was
9 an in-custody type report, or not.

10 Q. When you received the call you were
11 writing a report. Were you in your car, or were you at
12 the station, or where were you?

13 A. I was in my car.

14 Q. And what do you remember was the first
15 thing you heard about the call?

16 A. Someone shooting inside their house.

17 Q. Do you remember how far you were from the
18 DeSantis residence when you received the call?

19 A. I was at -- I guess the best intersection
20 I can explain is probably Baker Avenue and -- Santa
21 Rosa Avenue and Baker, at the Les Schwab Tire Center,
22 their parking lot.

23 Q. How far in minutes would you say you were
24 from the DeSantis residence?

25 A. On South Street, probably no more than

1 stopped about three or four houses from the address. I
2 had my lights off, and I stopped and got my patrol
3 rifle out and stood by.

4 Q. When you arrived at the scene and stopped,
5 were you able to see any other officers on the scene?

6 A. I believe I saw Officer Menke and Officer
7 Mann were already there.

8 Q. Outside their cars?

9 A. I believe so, yes.

10 Q. And when you saw Officer Menke and Officer
11 Mann outside their cars, did they have their weapons
12 drawn already?

13 A. That, I don't know.

14 Q. Okay. Why did you deploy your rifle?

15 A. Because, one, I was unfamiliar with the
16 DeSantis residence;

17 And, two: There was a report of shots
18 fired. And the rifle was at that time the best tool
19 that I had at my disposal.

20 Q. Okay. And did you when you got your
21 rifle, did it have a round in the chamber?

22 A. I put a round in the chamber as soon as I
23 pulled it out of the car.

24 Q. Okay. And then what did you do with it?

25 A. I slung it on my neck, and I pointed it

1 That's the direction the threat was in,
2 and so that's the direction my training has taught me
3 to point my firearm at.

4 Q. So, in your mind --

5 Well, was what was in your mind that
6 indicated that the -- to arm yourself with your rifle
7 was necessary?

8 A. Because there was a subject firing a gun,
9 and I had absolutely no idea at that point where that
10 subject was, and if he or she was armed.

11 Q. Okay. Did you hear any gunshots?

12 A. No, I did not.

13 Q. And were you able to see Mr. DeSantis at
14 that time?

15 A. No.

16 Q. Were you able to see into the home?

17 A. No.

18 Q. Were you stationary?

19 A. Yes, I was.

20 Q. Okay. And what was your location?

21 A. Just outside my door of my patrol car.

22 Q. Still two blocks away --

23 A. Yeah --

24 Q. -- I mean, two houses away --

25 A. -- I had not started walking up toward the

1 Q. What street was that?

2 A. South Street.

3 Q. Okay. As you were walking towards the
4 DeSantis residence, did you have any conversation with
5 the officers on the scene?

6 A. No.

7 Q. As you were talking towards the DeSantis
8 residence, did you know if Mr. DeSantis was inside or
9 outside his residence?

10 A. By the time we got to the building itself,
11 Officer Menke had announced that Mr. DeSantis was
12 outside the house.

13 Q. Okay. Did he say one way or the other
14 whether Mr. DeSantis was armed?

15 A. No. He just said he was outside.

16 Q. Okay. And were you able to see Officer
17 Menke the entire time you were walking towards the
18 driveway --

19 A. Yes.

20 Q. -- towards the home?

21 And did you hear Officer Menke order Mr.
22 DeSantis out of the house?

23 A. Out of the house? No.

24 Q. Okay. Besides your assault -- Besides
25 your duty rifle, what other weapons did you have with

1 Q. And there was no reason that any of these
2 items that were on your belt were unavailable to you
3 during the course of these -- during the course of this
4 evening, right?

5 A. Correct.

6 Q. They were all working, to your knowledge,
7 and available?

8 A. Yes.

9 Q. Do you remember precisely what the nature
10 of the call was when you first heard it?

11 A. It was either a -- Well, it was "Shots
12 fired inside the house," either regarding a "5150," or
13 some kind of "domestic violence dispute".

14 Q. When did you become aware that it was a
15 call regarding mental illness?

16 A. When Officer Menke was giving commands to
17 Mr. DeSantis, we all had our guns pointed toward him,
18 because we didn't know if he was armed or not, and his
19 wife was standing behind him, in the line of fire.

20 So, I had yelled at her to get back in
21 the house.

22 And she said that he was -- something to
23 the effect of he had a mental illness and was "in
24 crisis".

25 Q. From what you observed of Mr. DeSantis'

1 I think that's mainly because, now that
2 we had somewhat of a perimeter set up for Mr.
3 DeSantis, that's when Officer Menke started trying to
4 get his compliance to lay on the ground.

5 Q. Okay. Did you see Mr. DeSantis come out
6 the house?

7 A. No, I did not.

8 Q. Did you see Mrs. DeSantis come out of the
9 house?

10 A. I saw her at the doorway, or on the porch;
11 but, as far as her going -- coming out of the house, I
12 don't remember seeing her coming out of the house.

13 Q. So, when you were able to see them, they
14 were already visible.

15 A. Yes.

16 Q. Okay. You never saw them like through the
17 window or inside the house.

18 A. No.

19 Q. Okay. What was the first command that you
20 heard from Officer Menke?

21 A. I believe it was, "Put your hands up".

22 Q. You didn't hear him say, "Come out of the
23 house"?

24 A. No, I did not.

25 Q. And did Mr. DeSantis comply, and put his

1 hands up?

2 A. Um, I'm not sure if Officer Menke had to
3 tell him a couple of times, because Mr. DeSantis wasn't
4 very compliant during his commands.

5 Q. Were you able to see the look in his eye?

6 MS. FOWLER: At what point in time?

7 MR. SAFIRE: Q. At this -- When you first
8 saw him.

9 A. Yeah.

10 Q. Okay. Did you -- Were you looking at him
11 through the sight on your rifle?

12 A. Well, I -- The way we're trained to aim
13 our rifles is, we aim with both eyes open, so we have a
14 complete picture, and not looking through one eye.

15 Q. Okay.

16 A. And so, I could see him through the sight,
17 and also using my other eye --

18 Q. All right.

19 A. -- my left eye.

20 Q. But when you first see him, you have
21 your --

22 A. My rifle is up, but I'm not looking
23 through my sight, as when I first see him is when I put
24 my sight on him --

25 Q. Okay.

1 his house;

2 Officer Menke and Officer Mann were on the
3 west-side corner, because the complex is kind of a
4 U-shaped -- Well, it's two duplexes, I guess, on either
5 side.

6 Q. Would it help to illustrate with a little
7 diagram?

8 A. Sure.

9 Q. Okay. Let's see if I can set you up here.

10 MS. FOWLER: Can we take a quick break
11 while you are doing that?

12 MR. SAFIRE: Yes.

13 MS. FOWLER: That morning coffee has
14 gotten to me.

15 MR. SAFIRE: I would like to use the men's
16 room, too.

17 THE WITNESS: Going off the record, the
18 time on the monitor is 10:20 a.m.

19 (Brief recess taken.)

20 THE VIDEOGRAPHER: Coming back on the
21 record, the time on the monitor is 10:29. Please
22 begin.

23 THE WITNESS: Okay. You wanted me to --

24 MS. FOWLER: Just wait until there is a
25 question.

1 A. I don't remember hearing her say that.

2 Q. And I have forgotten what you said -- I
3 already asked you and you said -- but did she tell you
4 first that he was -- that it was a mental-illness
5 situation, and then you told her to go in the house?

6 A. No. When I told her to go into the house,
7 she yelled, "He has mental illness; he's in-crisis,"
8 something to that effect.

9 Q. Okay. And did you hear her say anything
10 prior to that?

11 A. No, I did not.

12 Q. Okay. And when she went back into the
13 house, did you hear her yelling anything out of the --
14 from inside of the house?

15 A. I didn't hear Mrs. DeSantis after I had
16 told her to go back in the house.

17 Q. Okay. Did Mr. DeSantis ever say anything?

18 A. No, I did not hear him say anything.

19 Q. By the time Menke gave his first command,
20 had all officers positioned themselves?

21 A. As far as Sergeant Soares, I'm not sure if
22 he had arrived on-scene prior to Officer Menke telling
23 him to put his hands up; but, by the time he was
24 ordering him to the ground, Sergeant Soares had showed
25 up.

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1 Q. Okay. And the first order that I think
2 you've described is, "Put your hands up".

3 A. Yes.

4 Q. And Mr. DeSantis eventually complied with
5 that?

6 A. Yes.

7 Q. Could you see like the palms of his hands?

8 A. Yes, I could.

9 Q. And they were up above his head?

10 A. Yes.

11 Q. And what was the next order?

12 A. It was to get on his knees.

13 Q. Did he do that?

14 A. After several commands, yes.

15 Q. Okay. When -- Were you able to observe
16 Mr. DeSantis sufficiently to determine if he understood
17 the commands?

18 A. I don't understand what you are . . .

19 Q. While Officer Menke was saying, "Get down
20 on your knees," did it appear to you that Mr. DeSantis
21 understood the commands, and he just wasn't following
22 them, or did he look confused or can you
23 describe the --

24 A. I --

25 MS. FOWLER: I'm going to object, to the

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1 A. That, I don't know.

2 Q. Was it less than a minute?

3 A. Most likely; but, again, I don't know, I
4 was more concerned with him.

5 Q. Okay. During that period of time, anyway,
6 while he was not complying, did he do anything that
7 caused you any concern for your safety?

8 A. No.

9 Q. Okay. When he did comply and get down on
10 his knees, can you describe what he did?

11 A. He knelt on his knees.

12 Q. He knelt on his knees, with his hands in
13 the air?

14 A. Yes.

15 Q. Okay. And then what happened?

16 A. Officer Menke told him to place his hands,
17 palms down, in front of him on the ground.

18 Q. Okay. And as he -- this command was being
19 delivered, his hands were still up in the air?

20 A. Yes.

21 Q. And what did he do after Officer Menke
22 said, "Put your hands on the ground"?

23 A. Officer Menke gave that order several
24 times before he complied.

25 Q. During this period of noncompliance time,

1 with that order?

2 A. No, I don't. It was less than a minute.

3 Q. Okay. And what did he do when he
4 complied, can you describe that?

5 A. He placed both his palms on the ground in
6 front of him.

7 Q. So, was he down on all fours?

8 A. Yes.

9 Q. And, obviously, you could see everybody --
10 You could see his hands.

11 A. Yes.

12 Q. Okay. Nothing else?

13 A. I didn't see anything on them.

14 Q. Did you understand what Officer Menke was
15 trying to get Mr. DeSantis to do at that time?

16 A. Well, I'm not quite sure -- what position
17 he was trying to get him into?

18 Q. Yes.

19 A. Yes, I do.

20 Q. Okay. What was he trying to accomplish?

21 A. To put him in the prone position on the
22 ground.

23 Q. Did Mr. DeSantis get in the prone
24 position?

25 A. Not completely.

1 Q. What did Officer Menke tell him to do at
2 that point, once he's on all fours, in order to get in
3 a prone position?

4 A. To lay down, put his chest on the ground.

5 Q. And you could hear those words?

6 A. I don't know if it's exactly what he
7 said --

8 Q. Okay.

9 A. -- but that's where he was going.

10 Q. Okay. And did Mr. DeSantis eventually
11 comply with that?

12 A. Yes.

13 Q. And when Mr. DeSantis was prone flat on
14 the ground, what happened?

15 A. I believe Officer Menke told him to put
16 his hands out to his sides, and Mr. DeSantis did not
17 comply.

18 Q. Okay. But he was prone on the ground,
19 with his hands extended above his head?

20 A. No.

21 Q. How was --

22 A. He was kind of in a push-up position, with
23 his hands to his side, kind of like you are getting
24 ready to do a push-up.

25 Q. I see. Flat on the ground, his hands --

1 A. Yes.

2 Q. And when he was in that position, what did
3 Officer Menke say, if anything? I'm sorry, I keep
4 saying Menke. It's "Menke," correct?

5 A. Correct.

6 Q. Okay. What did he say?

7 A. I don't remember the exact words, but I
8 believe Officer Menke told him to put his hands pointed
9 out to his sides, like what we were trained, to put
10 someone in the prone.

11 Q. Okay. After Mr. DeSantis had his hands on
12 the ground in a push-up position, what happened next?

13 A. Officer Menke kept telling him to put his
14 hands out, and Mr. DeSantis would push up, like he's
15 doing a push-up; and then they tell him to lay back
16 down a couple of times.

17 He'd put his chest back to the ground,
18 and then he'd push up again.

19 Q. Okay. And this entire time you had the --
20 your rifle pointed at him?

21 A. Yes, I did.

22 Q. Okay. Could you see any movements that
23 indicated that he was reaching for a weapon, or
24 anything like that?

25 A. He wasn't reaching for anything around his

1 that he was doing the push-up sort --

2 A. Yes.

3 Q. -- of movement that you described --

4 A. Yes.

5 Q. -- what happened next?

6 A. He eventually got up, in kind of a
7 sprinter's position -- Actually, let me back up.

8 He -- His eyes got really wide, and this
9 is when I really noticed a change in his facial
10 expression.

11 His eyes got really wide; he got this
12 eery smirk/smile on his face. That actually worried
13 me.

14 And then he got into the sprinter's
15 position, and took off running toward Officer Menke
16 and Officer Mann.

17 Q. When you say the smirk worried you, did it
18 cause you concern for your own personal safety?

19 A. No. Well, it caused me concern for
20 everybody's safety --

21 Q. Okay.

22 A. -- including myself and Officer Menke and
23 Officer Mann.

24 Q. Okay. What did you think he was going to
25 do that would harm the officers or yourself?

1 A. Well, he was going to charge them, and
2 possibly try to fight them.

3 Q. When you say that he was going to charge
4 them, and possibly fight them, did you get the
5 impression that he was going to use deadly force?

6 MS. FOWLER: Object that it calls for
7 speculation.

8 THE WITNESS: I don't know.

9 MR. SAFIRE: Q. Okay.

10 A. I don't know.

11 THE VIDEOGRAPHER: Off the record. The
12 time on the monitor 10:49 a.m.

13 (Brief recess taken.)

14 THE VIDEOGRAPHER: Coming back on the
15 record, the time is 10:52. Please, begin.

16 MR. SAFIRE: Q. What did you think he was
17 going to do?

18 A. I don't know.

19 Q. Okay. Do you know if Officer Menke and
20 Officer Mann were trained in physical hand-to-hand
21 combat?

22 A. I wasn't their trainer, so I would guess
23 they were --

24 Q. Okay.

25 A. -- because they are police officers, but

1 the extent of their training, I don't know what it is.

2 Q. Is it fair to say that before you become a
3 Police Officer in the Academy, at any rate, you get
4 some hand-to-hand combat training --

5 A. Yes.

6 Q. Okay. All right.

7 So, as I understand what happened, Mr.
8 DeSantis got into sort of a sprinter's stance from
9 the starting blocks, right?

10 A. Yes.

11 Q. And how long -- was he in that stance for
12 any period of time?

13 A. I don't know exactly what the period of
14 time was, but it wasn't very long.

15 Q. Okay. And when he got into that stance,
16 what direction was he heading?

17 A. He was running toward Officer Mann and
18 Officer Menke.

19 Q. Okay. Did he ever look towards you
20 throughout the -- prior to this time?

21 A. I didn't notice him looking at me.

22 Q. Okay. Had he looked at you, you would
23 have seen him, wouldn't you?

24 A. Yes.

25 Q. Okay. Did you get -- Did he ever

1 arrived and yelled, "I've got the less than lethal,"
2 did Mr. DeSantis look over towards him?

3 A. I did not see him look over towards him,
4 no.

5 Q. When Mr. DeSantis started to, what you
6 described as a full sprint towards Officers Menke and
7 Mann, what happened?

8 A. I don't understand the question.

9 Q. Once he started to run towards them, what
10 happened next?

11 A. Officer -- or excuse me -- Sergeant Soares
12 shot the less lethal.

13 Q. Okay. And could you hear it?

14 A. Yes.

15 Q. Did he -- Did anyone say anything before
16 that happened?

17 A. That, I don't remember.

18 Q. And Sergeant Soares was standing a little
19 bit behind, but in between you and Sergeant Celli?

20 A. Yes. I'd say, yeah. He wasn't quite
21 shoulder-to-shoulder with me, but he was -- he had just
22 maybe a step behind where I could see, actually see his
23 less-lethal gun there.

24 Q. Okay. Did you -- Do you know one way or
25 another if Sergeant Celli knew that Sergeant Soares was

1 Q. Okay. Is there a difference in the sound
2 between the discharge of that Sage and a rifle?

3 A. Yes.

4 Q. It's a distinct difference?

5 A. For me, yes, it is.

6 Q. And when the non-lethal shot was fired,
7 were you able to tell it was a shot from a non-lethal
8 weapon?

9 A. Yes.

10 Q. Okay. And what was --

11 Well, could you tell if the non-lethal
12 projectile came into contact with Mr. DeSantis' body
13 somewhere?

14 A. I know, after Sergeant Soares had fired
15 it, his momentum slowed, and he had kind of -- he had
16 turned his body toward my direction, and had grabbed
17 his hand.

18 Q. Okay. Did it appear to you that the
19 projectile hit him?

20 A. I thought it did.

21 Q. Okay. Were you able to tell where the
22 projectile hit Mr. DeSantis?

23 A. I guessed it hit him in the hand, because
24 that's where he grabbed right after the shot was fired,
25 but I didn't actually see it hit him in the hand.

1 Q. Did it look to you like he got punched in
2 the mid section?

3 A. No. Because when he turned -- I mean, he
4 buckled over, when he turned and grabbed and used one
5 hand to grab the other hand; so, that's why I thought
6 it had hit him in the hand.

7 Q. When you described it on tape you said:
8 "Sergeant Soares deployed the less
9 lethal. I saw it hit him in the mid
10 section. He paused very briefly, and
11 kind of crumpled over, like he had just
12 got punched in the stomach; but that
13 was, you know, I mean, half-a-second or
14 less."

15 Do you want -- Is that what you remember
16 seeing?

17 A. I mean, the crumpled over --

18 Q. I've got to ask the question. Is that
19 what you remember seeing?

20 A. The "crumpled-over part", yes, like he had
21 been punched in the stomach.

22 Q. Okay.

23 A. But he had also grabbed his hand, and
24 that's what made me think it hit him in the hand.

25 Q. Okay. When you saw his reaction to being

1 hit by the non-lethal projectile, did you come to the
2 conclusion that lethal force was necessary?

3 A. Not at that point, because I heard
4 Sergeant Soares putting another round into the chamber
5 of the less-lethal.

6 Q. I see. Did you anticipate that Officer --
7 excuse me -- Sergeant Soares was going to fire another
8 less-lethal projectile?

9 A. Yes, I did.

10 Q. Okay. After Mr. DeSantis was -- Strike
11 that.

12 After you saw Mr. DeSantis' reaction to
13 being hit by the non-lethal projectile, how much time
14 elapsed before he stood up again, or resumed his
15 upright position, I guess is a better way to say it?

16 MS. FOWLER: Well, I'm going to object.
17 That assumes facts not in evidence. He didn't testify
18 that he was upright.

19 MR. SAFIRE: Q. Okay. What I'm trying to
20 get at is how long did he stay crumpled over?

21 A. Not very long --

22 Q. Okay.

23 A. -- seconds, milliseconds.

24 Q. Sorry. And what did he do after he was
25 crumpled over?

1 A. He resumed his trajectory that he was
2 going before.

3 Q. Okay. So, he resumed running towards
4 Menke and Mann?

5 A. Yes.

6 Q. Okay. And when was it that you heard
7 Sergeant Soares load a second projectile into the
8 non-lethal weapon?

9 A. As soon as he started to straighten
10 himself and start to turn toward Officer Menke and
11 Officer Mann, I heard Sergeant Soares putting another
12 round into the chamber.

13 Q. Okay. And how far was Mr. DeSantis from
14 Officers Menke and Mann when you heard Soares rack the
15 second round into the non-lethal?

16 A. That, I don't know, because I was paying
17 more attention to Mr. DeSantis than to where Officer
18 Menke and Officer Mann were.

19 Q. But you were still concerned that he was
20 going to charge Officer Menke and Mann, weren't you?

21 A. Well, yes, I was -- but I wasn't --

22 Q. I'm sorry. But you didn't assess how far
23 away he was from them?

24 A. I wasn't looking back and forth from where
25 they were to where he was.

1 Q. How far was Mr. DeSantis from Officers
2 Menke and Mann when he was in the sprinter's gate
3 position, if you will?

4 A. That, I don't know. Maybe 30, 40 feet. I
5 don't know.

6 Q. Did Sergeant Soares fire the second round
7 from the non-lethal?

8 A. No.

9 Q. What happened next?

10 A. As soon as Sergeant Soares had fired the
11 less-lethal and I heard him putting another round into
12 the chamber, then I heard the first shot go off, which
13 was Sergeant Celli's rifle; and then, milliseconds
14 later, I heard the other two shots go.

15 Q. As part of your training, are you trained
16 to assess a situation prior to firing your weapon?

17 A. No, I don't.

18 Q. Okay. Prior to hearing the first lethal
19 shot, was there time to assess the effect of the
20 non-lethal projectile on Mr. DeSantis?

21 MS. FOWLER: Well, I'm going to object.
22 That's vague and ambiguous. Also, calls for
23 speculation and expert opinion.

24 Are you asking just about time for him?

25 MR. SAFIRE: Q. Sure. I'll say, was

1 about sympathetic fire?

2 A. Yes.

3 Q. Okay. And what are you trained to do
4 relative to it?

5 A. It's -- I -- From my understanding, it's
6 kind of an individual thing, as far as reaction by an
7 individual.

8 During our range training, you know, you
9 hear lots of gunshots go off, and you just have to
10 have self-control to try to keep from pulling the
11 trigger, when you don't intend to.

12 Q. I'm not getting through here. Let me try
13 again.

14 As part of your training, are you told to
15 be aware of sympathetic fire, and try not to do it?

16 A. Yes.

17 Q. Okay. That's what I was trying to get at.
18 Okay.

19 And it's kind of a natural reaction; and,
20 I take it, you are trained to be aware of it, and not
21 immediately fire just because you hear another gunshot.

22 A. Yes, from my understanding.

23 Q. Okay. Was Mr. DeSantis able to advance
24 towards Officers Menke and Mann after being hit by the
25 non-lethal projectile?

1 A. He started running back toward them.

2 Q. And did the -- Did the shot from Sergeant
3 Celli's rifle stop him?

4 A. Yes.

5 Q. And what happened? Describe what you saw.

6 A. I heard all three shots go off, because
7 they were that close together.

8 He stopped. He kind of turned toward
9 me, if I remember correctly, backed up, and then fell
10 onto the ground next to a white truck that was in the
11 driveway.

12 Q. Okay. When you say you "heard all three
13 shots," those were the three shots subsequent to
14 Sergeant Soares' shot?

15 A. Yes.

16 Q. Okay. The first shot --

17 Let me ask you, when you were out there
18 that night and you heard the shot immediately after
19 Sergeant Soares' shot, did you know it was from
20 Sergeant Celli's rifle then?

21 A. I did recognize it sounding like a rifle,
22 because the handgun and the rifle sound different. So,
23 I recognized the rifle going off; then I recognized the
24 two handguns going off.

25 Q. Okay. And that's your recollection.

1 Q. And I think I've asked you this, but
2 please bear with me:

3 When he -- When the non-lethal shot was
4 fired, I think you said he was about 30 to 40 feet
5 away, is that correct, from Officers Menke and Mann?

6 MS. FOWLER: I'm going to object that it
7 misstates his testimony.

8 MR. SAFIRE: Q. Yeah, maybe so.

9 How far away was he when the non-lethal
10 shot was fired?

11 A. Maybe 20 to 30.

12 Q. Okay.

13 A. I think it originally -- I think the 30 to
14 40 came from where he was at the sprinter's stance.

15 Q. I see. Okay.

16 And how about, after the non-lethal shot
17 was fired, and the lethal shot was fired, was he
18 still about 20 feet away?

19 A. He had taken a couple steps, so that could
20 be accurate.

21 Q. Okay. And you never saw him reach into
22 his waistband or into his pockets, correct?

23 A. Yes.

24 Q. We discussed your rifle that you got out
25 of your car. What kind of rifle is that?

STATE OF CALIFORNIA) ss.
)

CERTIFICATE OF REPORTER

I, A. MAGGI SAUNDERS, a Certified Shorthand Reporter in and for the State of California, duly appointed and licensed to administer oaths and so forth, do hereby certify:

That the witness named in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth;

That the deposition was reported by me, a Certified Shorthand Reporter and disinterested person, and thereafter transcribed into typewriting under my direction;

That if the deposition has not been signed by the time of trial, a reasonable opportunity having been given the witness to do so, signature has been waived in accordance with stipulation between counsel.

IN WITNESS WHEREOF, I have hereunto set my hand and subscribed my signature this 24th day of June, 2008.

A. Maggi Saunders CSR

A. MAGGI SAUNDERS, C.S.R. No. 2755,
Certified Shorthand Reporter,
In and For the State of California

